

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 5934 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

JADEJA SAHDEVSINH LAKHUBA

Versus

STATE OF GUJARAT

Appearance:

MR YS LAKHANI for Petitioner

PUBLIC PROSECUTOR for Respondent No. 1

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 20/10/97

ORAL JUDGEMENT

The petitioner-accused has been arrested by the police for an offence punishable under Section 302 of the Indian Penal Code which has been registered at Padadhri Police Station being CR.no.40/97. It appears that before the Sessions Court three applications were submitted on different occasions and after the chargesheet the later application came to be filed before the learned Addl.

Sessions Judge being Misc. Criminal Application
no.1109/97.

Learned Counsel appearing for the applicant drew the attention of this Court to a document, namely, FIR dated 14-5-1997 lodged by one Dhirajbha which has been signed by the said witness. In the complaint it is specifically stated that the applicant was delivering blows on the person of the deceased and at that time son of Dhirubha and one Tina Ranchhod were telling the applicant Sahdevsinh not to deliver any blow on the person of the deceased. Learned Counsel submitted that in further statement which has been recorded on the next day the complainant tried to involve son of Dhirubha and Tina Ranchhod and stated that he was afraid, he stated that the two persons namely, Dhirubha and Tina Ranchhod were asking applicant Sahdev not to cause injuries to the deceased. Learned Advocate submitted that as the witness has changed the version in so far as other two accused are concerned, the version of the complainant should not be accepted. While deciding the bail application, the Court is not appreciating the evidence. In the present case, it is clear that so far as part played by the accused-applicant is concerned there is no departure from the story narrated earlier. Witnesses, namely, Bhagwanjibhai and Jagabhai Khengarbhai have also given their version and in so far as principal offender is concerned. They support the prosecution version. The learned Addl. Sessions Judge has rightly observed that it is not a matter of appreciation of evidence and the learned Judge has further observed that on the person of the deceased injuries nos.4, 5 and 6 were stab wounds. The accused-applicant has not stopped after giving one or two blows but he has caused six incised injuries and other abrasions, in all, eleven injuries. In view of the aforesaid circumstances, this application is rejected.

(B.C.Patel,J.)

sf-bcp.